

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION**

DANNY R. MAINES,
Plaintiff

Case No. 1:05-cv-470

vs

OHIO DEPT. OF REHABILITATION
AND CORRECTION, et al.,
Defendants

REPORT AND RECOMMENDATION
(Weber, J.; Hogan, M.J.)

On February 22, 2006, defendants filed a motion for judgment on the pleadings in the within action. (Doc. 22). Plaintiff failed to file a response to the motion. In addition, a Court Order mailed to plaintiff on March 6, 2006 was returned by the postal service as “unable to forward” and noted “exp of sentence.” (Doc. 24). On April 7, 2006, the Court ordered plaintiff to show cause within fifteen days why this case should not be dismissed for his lack of prosecution. (Doc. 25). This Order was sent to plaintiff by certified mail and also returned as “unable to forward” and noted “exp of sentence.” (Doc. 26).

To date, more than fifteen days later, plaintiff has yet to reply to the Court’s Order. Accordingly, dismissal is appropriate. Fed. R. Civ. P. 41(b); *Link v. Wabash R.R.*, 370 U.S. 626, 630-631 (1962); *Jourdan v. Jabe*, 951 F.2d 108, 109 (6th Cir. 1991).

IT IS THEREFORE RECOMMENDED THAT:

1. Plaintiff’s complaint be **DISMISSED** with prejudice for lack of prosecution.
2. The Court certify pursuant to 28 U.S.C. § 1915(a)(3) that for the foregoing reasons an appeal

of this Court's Order would not be taken in good faith. *See McGore v. Wrigglesworth*, 114 F.3d 601 (6th Cir. 1997).

Date: 4/25/2006

s/Timothy S. Hogan
Timothy S. Hogan
United States Magistrate Judge

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**NOTICE TO THE PARTIES REGARDING THE FILING OF OBJECTIONS TO THIS
R&R**

Pursuant to Fed. R. Civ. P. 72(b), any party may serve and file specific, written objections to this Report & Recommendation (“R&R”) within **TEN (10) DAYS** after being served with a copy thereof. That period may be extended further by the Court on timely motion by either side for an extension of time. All objections shall specify the portion(s) of the R&R objected to, and shall be accompanied by a memorandum of law in support of the objections. A party shall respond to an opponent’s objections within **TEN DAYS** after being served with a copy of those objections. Failure to make objections in accordance with this procedure may forfeit rights on appeal. *See Thomas v. Arn*, 474 U.S. 140 (1985); *United States v. Walters*, 638 F.2d 947 (6th Cir. 1981).